

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JERMAINE DEVON WATKINS,

Plaintiff,

v.

CATHERINE M. BAUM, et al,

Defendant.

CASE NO. C11-5494RBL

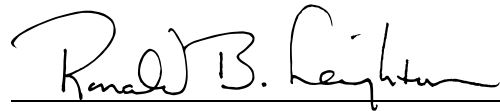
ORDER ON MOTION TO AMEND  
COMPLAINT

THIS MATTER is before the Court on Plaintiff's Motion to Amend Complaint [Dkt. #140]. The Court has reviewed the argument for and against the motion. Following the unsuccessful lawsuits against past and present Department of Corrections employees whom the Plaintiff claims are responsible for the loss of a kidney in 2012, Plaintiff seeks to sue a "John/Jane Doe" whom he wishes to add as a defendant to his lawsuit. Evidence in the possession of a party moving to amend is not newly discovered evidence for purposes of Fed. R. Civ. P. 60(b)(2) if it could have been learned at an earlier date in the proceedings with exercise

1 of due diligence. *Feature Realty Inc. v. City of Spokane*, 331 F.3d 1082, 1093 (9<sup>th</sup> Cir. 2003).

2 That is the situation here. The motion is **DENIED**.

3 Dated this 22<sup>nd</sup> day of January, 2018.

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5 Ronald B. Leighton  
6 United States District Judge  
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